

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

BERWICK AREA LANDLORD	:	4:CV-07-316
ASSOCIATION, ET AL.,	:	
	:	(Judge McClure)
Plaintiffs	:	
	:	
v.	:	
	:	
BOROUGH OF BERWICK,	:	
	:	
Defendant	:	

ORDER

March 14, 2007

BACKGROUND:

A case management conference was held on March 8, 2007. Participating in the conference, in addition to the undersigned judge, were Bethany D. Hager, Esquire, attorney for plaintiffs, and Steven K. Ludwig, Esquire, attorney for defendant (both by telephone), and Franklin E. Kepner, Esquire, attorney for defendant (in person).

The conference was scheduled regarding plaintiff's motion for preliminary injunction and temporary restraining order, filed March 5, 2007. Counsel agreed during the March 8, 2007 conference to schedule the preliminary injunction hearing for April 12, 2007.

On March 9, 2007, counsel for defendant confirmed to the court by

telephone that defendant agreed to refrain from enforcing the challenged ordinance until the court had ruled on plaintiffs' motion for a preliminary injunction.

On March 14, 2007, the court was advised by counsel that the Borough of Berwick would voluntarily refrain from enforcing the following provisions of the Borough of Berwick's Ordinance regulating residential rental unit occupancy and providing for inspections and penalties for noncompliance pending a hearing on the motion for a preliminary injunction:

- Section 141.4(2) of the Ordinance concerning the designation of a manager and Section 141.4(3) of the Ordinance concerning disclosure of the manager;
- Section 141.4(5) of the Ordinance requiring written rental agreements;
- Section 141.4(6) requiring registration of residential rental units;
- Section 141.4(16) concerning renting to illegal aliens; and
- Section 141.6 governing licensure requirements.

NOW, THEREFORE, IT IS ORDERED THAT:

1. A hearing will be held on plaintiffs' motion for preliminary injunction on April 12, 2007 at 10:00 a.m. in Courtroom No. 3, Third Floor, Federal Building, 240 West Third Street, Williamsport, Pennsylvania, continuing on April 13, 2007, if necessary.
2. Defendant shall have to and including April 3, 2007 within which to file its brief in opposition to the motion for a preliminary injunction.
3. Prior to commencement of the hearing, each party shall file proposed findings of fact and conclusions of law.
4. The court will allow an opportunity after the conclusion of the hearing for the parties to file and serve supplemental proposed findings of fact and conclusions of law, if so requested.
5. Prior to the commencement of the hearing, counsel shall mark all exhibits which they tend to introduce. One set of pre-marked documentary exhibits with an exhibit list in triplicate shall be delivered to the deputy clerk before or at the outset of the hearing. The exhibit list shall be in the form attached. Only exhibits so listed may be offered in evidence at the hearing, absent compelling reasons to the contrary. LR 16.3(b).
6. In order to preserve the *status quo*, the defendant Borough of Berwick

is temporarily restrained from enforcing the following specific provisions of the Borough of Berwick's Ordinance regulating residential rental unit occupancy and providing for inspections and penalties for noncompliance pending a hearing on the motion for a preliminary injunction:

- Section 141.4(2) of the Ordinance concerning the designation of a manager and Section 141.4(3) of the Ordinance concerning disclosure of the manager;
- Section 141.4(5) of the Ordinance requiring written rental agreements;
- Section 141.4(6) requiring registration of residential rental units;
- Section 141.4(16) concerning renting to illegal aliens; and
- Section 141.6 governing licensure requirements

7. Plaintiffs' motion for a temporary restraining order is granted to the extent of the relief provided, by agreement, in paragraph 6 of this order.

8. The Borough's agreement to voluntarily refrain from enforcement of the provisions identified above is without prejudice to its claim that the subject ordinance is valid and lawful. Plaintiffs' agreement to the entry of this order is without prejudice to any claim that the entire ordinance is unlawful and/or that

provisions in addition to those identified above are unlawful.

9. The scheduling order issued February 28, 2007 by Judge Muir is vacated, and the case management conference scheduled for April 30, 2007 is therefore cancelled.

10. A telephone status conference is scheduled for Monday, March 26, 2007, at 1:30 p.m. Counsel for defendant shall initiate the call.

s/ James F. McClure, Jr.
James F. McClure, Jr.
United States District Judge

CLERK'S EXHIBIT LISTING

JUDGE: James F. McClure, Jr.

Case Name and Number: _____

Name of party submitting this list: _____

[illegible]

